



Date: September 28, 2007

To: Honorable Mayor and Common Council Members

From: Mark W. Luberd
Director of Administration

RE: Revised Sign Ordinance

Upon understanding that the Building Inspection Department, for which I have general administrative responsibility, was to have a prominent role in the enforcement of the sign ordinance, I evaluated the ordinance to ensure enforcement issues were clear. I identified some issues and posed some questions for the City Attorney to get his interpretation, as it is the City Attorney's role to interpret ordinances for the City. Based on those issues, the Common Council tabled the issue and asked that I prepare a revised version to address various issues within the ordinance.

In reviewing the sign ordinance, I have, as indicated at the last Common Council meeting, attempted to avoid adding or changing any matters of policy. I have, however, had to do so where conflicting language had to be reconciled or where gaps in the stated policy needed to be addressed. In these instances I have attempted to ascertain the intent of the current language by reviewing the language, reviewing other community ordinances used as references, and discussing the matter with other individuals involved. Additionally, in some limited instances I have addressed some minor matters of policy that I did not believe to be controversial in nature, but would eliminate the need for future additions (often after it is too late).

The following is intended to highlight the general nature of the changes in the version before you and to highlight some specific changes incorporated.

General Nature of Changes

Eliminated unused definitions and definitions no longer needed

Added definitions to aid in interpreting the ordinance or to simplify lengthy, repeated text (Ex.

"sign content" or "incorporated in") For example, instead of continuing to list various ways a sign or message could be attached to something and having that list vary throughout, I created one definition and used it throughout. (INCORPORATED IN: includes incorporated on, incorporated into, erected upon, mounted to, painted on, affixed to, applied to, constructed within or as part of, or represented directly or indirectly upon.)

Reconciled text that could be interpreted as conflicting with other text or was potentially unintentionally too restrictive or too broad in scope. For example, in the definition of "Commercial Message" reference was made that it is limited to messages only from "a person directly involved in the manufacture or sale..." Having that language must imply *something*, so someone could argue that Ad Agency messages are not commercial messages. That can't be the case, so I eliminated the unnecessary language.

Examples of Specific Changes made that shouldn't have affected intent

- A. 210-5 P. Added "Temporary Window Signs: Window Signs per 210-10 C. that are not Permanent Window Signs as set forth therein shall not require a permit but shall be subject to all other requirements of this chapter." This was the intent provided for in other sections, but it was not included in the "Exempt" section itself.
- B. 210-5 Q. Construction Signs was added as exempt and includes the business entity moving in following construction.
- C. Added authorizing section for shingle signs in an MTCC.
- D. Provided that our signs, banners, and flags may be on utility poles.
- E. Tightened language prohibiting balloons and inflated items.
- F. Added "Abandoned and Obsolete" signs to the Prohibited section so that we could enforce under the removal section which requires the sign to be illegal to enforce removal.
- G. Added "Sandwich boards and other portable signs" to the prohibited section as was intended elsewhere in the code.
- H. Rewrote section 210-9 to more clearly address calculating sign areas and the total allowable types of signs.
- I. Provided for "Permanent Window Signs" as an allowable form of main signage. Such a sign could be an etched logo, etc.
- J. Sign area will be calculated, basically, as the smallest rectangle in which it would fit.
- K. Provided for allocating the maximum sign area available to tenants within an MTCC or complex.
- L. Throughout the ordinance allowed planning commission to consider "any other such factor deemed appropriate"
- M. Allow for menu boards not exceed 70 square feet (Taco Bell) if you have a drive through
- N. Required a Coordinate Sign Program for a Special Sign District be submitted to the Plan Commission before the public hearing since approval of one is to be considered after the hearing.
- O. Clarified the Building Inspector's duties so he is not making an administrative determination of code compliance prior to submission to a board having a hearing on that question.
- P. Clarified that you do not have to have an issued electrical permit to apply for a sign permit.
- Q. Restructured Fee section for clarity.
- R. Clarified in "Unsafe and Unlawful Signs" that any sign that is in violation of the Prohibited section is unlawful.
- S. Added "with concurrence of City Attorney" prior to "shall issue a citation" – If the attorney doesn't feel it is ripe for prosecution, the City should not issue a citation.
- T. Added "All amounts due here under shall also constitute a special charge which may be levied upon a subsequent tax roll." to the Removal authority section.

Technical Changes that should be authorized per any approval motion

The outline structure of the draft needs to be amended to match the municipal code outline format. Internal references should be verified and corrected following adjusting the outline structure. Verify and correct the index

Minor Policy Changes: The following are some minor changes in policy that I have incorporated into the draft before you. I recommend their approval.

- 1) Included a provision prohibiting signs that play, project, reproduce, or amplify sounds.
- 2) Flag poles are limited to 18 inch circumference without approval of City Development in order to protect against some large structure being called a flag pole by an individual.
- 3) Incorporated “political parties” in the scope of “Political or Campaign Signs” in case a sign simply says “Vote [insert party name here]”.
- 4) Added the last sentence to the following: Site Information Signs:
Signs of no more than six (6) square feet in area which, without advertising reference, provides direction to or instruction concerning facilities intended to serve the public, including, but not specifically limited to, restrooms, public telephones, walkways, traffic flow or directions, parking restrictions, and features of a similar nature. An approved Master Site Plan of an MTCC may allow de minimis reference to the MTCC or center.
- 5) In an MTCC, I allowed for color schemes or patterns, not just two colors, but retained control over additional colors. Needed this to accommodate the language that already allows for logos.
- 6) Clarified that if permit is null and void. You must start over, pay over, and approval is not guaranteed.

I will be prepared to answer question that you may have regarding these changes.



Date: September 31, 2007

To: Honorable Mayor and Common Council Members

From: Mark W. Luberda
Director of Administration

RE: Sign Ordinance – Additional Information

I was not part of the discussions that were held on the ordinance, so my understanding of its development and the items discussed were only second hand. As such, I had previously indicated that in preparing a revision to the sign ordinance I did not, in general, intend to change policy, only to clarify the intent already contained in the proposed ordinance.

In reading the ordinance, however, a few potential policy items came to my attention that I thought might merit discussion. I have included them below with potential language that could be incorporated, along with the necessary code reference.

Policy Changes For Consideration

1. The following language is in the definition sign: “The term “sign” shall not include any flag, badge, or insignia of the United States, the state of Wisconsin, Milwaukee County, or the City of Franklin.” This was implied in language of the prior draft, so to make it clear, in the current version Governmental flags are excluded from the definition of “sign” and are, therefore, not regulated by the sign code. If this assumption went too far it can easily be undone.

The prior draft also provided for the following intent:

“Flags, standards, banners, or emblems representing the United States, State of Wisconsin, County of Milwaukee, or City of Franklin including flags with emblems or insignia of other governmental, political, civic, philanthropic, religious or educational organizations, provided the flag contains no other sign content.”

Some communities restrict flags more closely to avoid odd circumstances, and this may be advisable for this expanded list of flags. Some additional restriction is included because further language limits flag poles to 18 inches in diameter so that nobody built an odd structure (let’s say a 40 foot replica of the Washington Monument, put a flag on top and called it a flag pole). This becomes more significant with the expanded list of flags from civic organizations, etc.

The following language, from the City of Brookfield sign code, could be added to the end of 210-6 F. to further limit potential impact.

“ The maximum area of a flag shall be twenty-four (24) square feet. Flags may be suspended on a pole no higher than thirty-five (35) feet.”

2. In order to support a common community interest. The City may wish to allow flags from Packers, Brewers, and Wisconsin colleges. If so, the following could be added to 210-6 F. following “organizations,” “and including flags of professional, Wisconsin-based, sports team and colleges and universities located in Wisconsin,”

3. The City of Brookfield provides for the following restrictions on neon signs. I was unaware if such a consideration was discussed or desired. If so, the following would be added.

Add to definitions: NEON SIGN: A permanent sign fabricated from glass tubing, illuminated with electrically-charged neon gas or other gasses with a comparable effect.

Add to 210-7 E. Prohibited Sign Types: 11. No exposed neon shall be permitted.

4. The prior proposed code was VERY unrestrictive to agricultural signs. More restrictive language might be considered to replace 210-10 J. The first two lines are the full text of the current proposed draft with new text beginning with the word “except”

“J. Agricultural Sales:

Signs advertising the sale of agricultural crops or plants grown by the person(s) selling the agricultural products are permitted and shall be exempt from the requirements of this code except that the maximum sign area per premises is 64 square feet; the sign must not be in conflict with section 210-7 Prohibitions; the sign content must be neat, legible, and nominally aesthetically pleasing as determined by the Building Inspector; and the sign must be anchored and supported in a manner that reasonably prevents the possibility of the sign becoming a hazard to the public health and safety as determined by the Building Inspector. Use as an Agricultural Sign shall not prevent the City from pursuing and enforcing removal of a permitted sign, in accordance with Section 210-16, that has, except for the agricultural sales message, become abandoned or obsolete.

Additionally, it may be advisable to clarify its exempt status even if there is a desire to leave it very unrestrictive language; the prohibitions (obscenity, vision triangles, etc) should still apply.

5. Garage sales signs are restricted as set forth in 210-10 I. Rummage, Garage, and Yard Sales. The City may wish to add language to hinder permanent sales by adding the following:

“6. No more than three (3) sales periods per year may be advertised for any individual residential property”

6. 210-9 B. Allocation of Sign Area to Sign Types indicates the following:

- (a) The maximum total area of allowable signing on any property may be apportioned to a maximum of two of the following sign types, unless further restricted by other code provisions or unless approved as part of a Master Sign Program: wall signs, monument signs, marquee signs, permanent window signs, and canopy and awning signs. Exempt signs are not considered in this determination.

I do not know what discussion was held on this point, but this would restrict a business from having a monument sign at their entrance, an etched glass permanent window sign, and their name on an awning. Also, by restricting the types to two, you, by default, encourage larger signs of those two types. More, subtler signs may be more aesthetically pleasing.

Aesthetics may be better controlled by the Architectural Review Board than by arbitrary

limitation on sign types. Nonetheless, the number “two” can be changed to “three” or the words “a maximum of two of” could be stricken.

7. The prior version of the proposed sign ordinance included the following definition:

ATTENTION GATHERING DEVICE: A device that is utilized to attract attention of passers-by. Examples include strings of pennants, banners or streamers, advertising flags, clusters of flags, strings of twirlers or propellers, flares, balloons, strobe lights, and sequential flashing "runner" lights.

There was no reference to this phrase in the text or indication as to the intent of the phrase. The City may wish to prohibit these items as with the items in 210-7 E. Prohibited Sign Types. If the City wished to restrict these items, the above definition should be incorporated (along with pennants, pinwheels, and streamers – in the singular as opposed to a string) and 210-7 E.3. should be replaced with the text “Attention Gathering Devices”.

8. Brookfield restricts Window signs to 25% of total window area, not 10% of each window area.
9. Brookfield limits informational signs to 4 sq. ft, not 6 sq. ft.
10. Brookfield provides for the following for seasonal Commercial establishments. It could be added as 210-10 Section M and changing Director of Community Development with Building Inspector.

Seasonal Signs. Signs for seasonal commercial establishments shall be permitted if so approved by the director of community development upon application therefor. The area of such signs shall not exceed thirty-two (32) square feet. In the discretion of the director of community development, the temporary permit for a seasonal sign shall be granted for the term of the season instead of the regular thirty (30) day period.

11. Brookfield provides the following to allow for Banners on a limited basis.
 - G. Banners.
 1. All permits for banners shall be issued by the director of community development upon approval of a proper application therefor.
 2. Banners may not exceed thirty (30) square feet in area.
 3. No business shall be issued sign permits for more than four banners in any year.
 4. There may be no more than two banners erected, per site, at one time.
 5. Banners erected at multitenant commercial business common areas must advertise events at the MTCB, not single-store events.

This could be added by adding it to section 210-10, changing to Building Inspector, and eliminating conflicting references throughout. I could prepare a version for the Common Council

Items for Future Consideration:

The following items may merit consideration at some point in the future. Some effort would be needed to determine the intended change desired and the necessary language to effect the change.

A) Signs within Fairs, festivals, carnivals, etc. Most of these events are likely to have numerous devices that will technically be in conflict with the ordinance as proposed. Unless otherwise directed and under normal circumstances, I would not expect to enforce the sign code, in its current form, on these activities. At some point a set of allowances and restrictions is called for.

B) Total signage allowed within a Master Sign Program or MTCC: The prior proposed version of the sign code included an increase in the maximum total amount of signing allowed for a business entity premises. It did so by providing for sign area allotments for all facades used for signs and by accommodating second stories. These expanded considerations weren't incorporated into the MTCC section. As such, a free standing building in an MTCC could end up with half the total allowable signing of an independent free standing building. It would take a little bit of work to determine the best manner in which to accomplish that if it were the desire of the Council to do so.

C) Clarify the issue of "Glare" in 210-15. "Glare" is a defined term in other sections of code. It has a very high standard in that section and is difficult to enforce. A more comprehensive search for effective "glare" definitions and restrictions might be beneficial.

D) Evaluate definition of Billboard. I have not evaluated the definition or proposed any modification thereto. I recommend it be evaluated and revised if need be.

E) Holiday decorations and lighting: Some codes attempt to address these topics as some such decorations might be considered to qualify as a sign. The proposed code does not address this, except to exempt City decorations from being considered as signs.

F) As with Attention Gathering Devices above, some codes attempt to further restrict light issues by restricting items such as the following: bare bulbs, strings of lights, flashing, festoon lighting, rope lighting, decorative and accent lighting, and neon signs.

G) Consideration should be given as to whether the ordinance would be more effective if clean up of the definitions section occurred. Cleaning up would involve moving in some definitions which are presently defined within the full text, such as sign area.

H) Additional effort might help to further clarify and unify sections discussing banners, banner signs, and flags.

I) Additional effort might help reconcile or condense terms "sign content" and "commercial message" and ensure there are no conflicts or gaps in the definition.

J) Box Signs Restrictions: May wish to consider limiting this classic style of sign.

Correction:

My previous memo indicated the language regarding Construction Signs shouldn't have deviated from the prior intent. The language added at 210-6 Q probably goes further than that and addresses new areas of policy with regard to these signs.